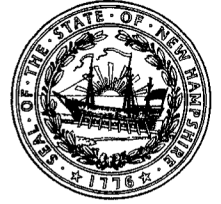




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 13, 2005

Stiles Fuel Co., Inc.
Attn: Robert Stiles
6 Jefferson Road
Whitefield, NH 03598

Re: Docket No. AF 04-048 – Stiles Fuel Co., Inc.

Dear Mr. Stiles:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on April 11, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Scalfaro
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
James Martin, DES Public Information Officer
Tammy Calligandes, DES WMD

Stiles Fuel Co., Inc.
Attn: Robert Stiles
6 Jefferson Road
Whitefield, NH 03598

**ADMINISTRATIVE FINE
No. AF 04-048**

Re: 124 Route 3, Whitefield, NH
UST ID # 0-110538

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Stiles Fuel Co., Inc., parties to the above-captioned matter, and stipulate to the following:

1. The Department of Environmental Services, Waste Management Division, is an administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03302.
2. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
3. Stiles Fuel Co., Inc. ("Stiles") is the registered owner of four underground storage tank ("UST") systems at Stiles ("the Facility"), further identified as UST #0-110538, located on real property at 124 Route 3, Whitefield, NH ("the Property").
4. On September 7, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-048 ("the Notice") to Stiles seeking fines totaling \$10,400 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
5. Specifically, the Notice Cited Stiles for violating Env-Wm 1401.07(c) by failing to display and permanently affix a permit at the Facility. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.
6. The Notice further cited Stiles for violating Env-Wm 1401.11(a) by failing to maintain accurate stock inventory records for the three 4,000-gallon gasoline and one 4,000-gallon diesel USTs in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.05(a) the Division sought a fine of \$2,000.
7. The Notice further cited Stiles for violating Env-Wm 1401.21(1) by failing to display and permanently affix a certificate bearing the Facility's tank information. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.

8. The Notice further cited Stiles for violating Env-Wm 1401.25(d) by failing to properly install and maintain overfill protection equipment for the 4,000-gallon diesel UST. Pursuant to Env-C 607.05(j) the Division sought a fine of \$200.

9. The Notice further cited Stiles for violating Env-Wm 1401.30(a) by failing to conduct release detection for all four piping systems. Pursuant to Env-C 607.03(j) the Division sought a fine of \$4,000.

10. The Notice further cited Stiles for violating Env-Wm 1401.33 for failing to install corrosion protection for the steel piping under the dispensers for all four USTs. Pursuant to Env-C 607.03(f) the Division sought a fine of \$4,000.

11. In order to settle this matter, the Division and Stiles have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.

12. Of the proposed fine in the amount of \$10,400, 20% or \$2,080 shall be suspended due to the past compliance history of the Facility. An additional 20% or \$2,080 shall be suspended due to Stiles cooperation in returning the Facility to a compliance status. An additional 20% or \$2,080 shall be suspended due to the Facility's small business status.

13. The suspended portion of the proposed fine in the amount of \$6,240 is contingent upon Stiles maintaining the subject facility in compliance with Env-Wm 1401 for a period of two years from the date of execution of this document. If Stiles fails to maintain compliance during the two-year period, the suspended portion of the proposed fine, in the amount of \$6,240 shall become due and payable immediately. If Stiles maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

14. Stiles agrees to pay the remaining \$4,160 upon execution of this Agreement by Stiles.

15. Payment under Paragraph #14, and any payment that becomes due pursuant to Paragraph #13 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

16. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

17. By executing this Agreement, Stiles waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

18. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Stiles, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

19. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Date

4/5/05

Respectfully submitted,
Stiles Fuel Co., Inc.

COPY
Robert Stiles, Duly Authorized

Date

4/11/05

DES Waste Management Division

COPY
Anthony F. Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 13th day of April, 2005.

COPY
Michael J. Niles, Commissioner
Department of Environmental Services